

## **CHAPTER 20**

### **STOCKBRIDGE-MUNSEE TRIBAL LAW NATURAL RESOURCES ORDINANCE**

#### **Fish - Game - Forestry**

##### **Section 20.1 Council Findings**

Being cognizant of the special relationship existing from time immemorial between Indians and the natural environment, the Tribal Council of the Stockbridge-Munsee Community finds:

- (A) That Article VII, Sec. 1 (f) of the Stockbridge-Munsee Constitution and By-Laws (approved 11-18-37) which states in part, "To promulgate and enforce ordinances, "...empowers the Council to regulate, by enactment of an ordinance, all activities relating to hunting, fishing, trapping, and timber and mineral exploitation within the exterior boundaries of the Stockbridge-Munsee Community Reservation; and
- (B) That the land and waters of the Reservation and all the fish, game and plants found therein are the most valuable and revered cultural and economic assets of the Stockbridge-Munsee Community; and
- (C) That the Stockbridge-Munsee Community Band of Mohican Indians desires to conserve and maintain the fish, animals, birds and plants existent upon its reservation; and
- (D) That the Stockbridge-Munsee Community Band of Mohican Indians desires to conserve, maintain, and enhance the quality of the waters of the reservation; and
- (E) That the Stockbridge-Munsee Community Band of Mohican Indians desires to manage its fish, game, water and vegetative resources in a manner such as to enhance and preserve these resources to insure their continued availability; and
- (F) That the Stockbridge-Munsee Community Band of Mohican Indians desires to manage its timber and mineral resources for the betterment of the Tribe and desires to enhance and preserve these resources to insure their continued availability; and
- (G) That certain species of fish, animals, birds, and plants existent or introduced or reintroduced upon the lands and waters of the reservation must be protected; and
- (H) That the conflicting Tribal goals of environmental protection and economic development must be carefully balanced to serve the best interests of the Tribe.

## **Section 20.2 Council Declaration of Purpose.**

The purpose of this Ordinance is:

- (A) To provide for the conservation and management of fish, game, timber, minerals, water and other natural resources of the Tribe's reservation for the present and future use and enjoyment of tribal members and such other users as the Tribe shall permit; and
- (B) To establish new departments of tribal government, as may from time to time become necessary, to administer and enforce this Ordinance; and
- (C) To affirm the authority of the Fish and Game Department, the Forestry Department, and such other departments as may be established to:
  - (1) Carry out the conservation policies of the Stockbridge-Munsee Community and
  - (2) Establish regulations, policies and procedures pertaining to the subject matter of each department.

## **Section 20.3 Definitions.**

As used in this Ordinance, unless the context otherwise requires:

- (A) "Authorized Enforcement Personnel" - means Stockbridge-Munsee Law Enforcement Officers and Game Wardens, and Federal Law Enforcement Officers. State Game Wardens shall be permitted within the exterior boundaries of the Stockbridge-Munsee Community Reservation to enforce state game laws against non-members if requested by the Tribal Council or a Stockbridge-Munsee Game Warden.
- (B) "Commercial Fishing Permit" - means a card issued by the Tribal Council to an enrolled member of the Stockbridge-Munsee Community Band of Mohican Indians upon determination that a limited amount of commercial fishing will not harm the resource.
- (C) "Fish and Game Infraction(s)" - means a violation of any provision(s) of this Ordinance pertaining to fishing, hunting or trapping for which a civil penalty may be imposed under this ordinance.
- (D) "Fishing Identification Permit" - means a card which authorizes the recipient to fish, pursuant to the provisions of this ordinance, within the exterior boundaries of the Stockbridge-Munsee Community Reservation.
  - (1) The Fishing Identification Permit(s) shall be issued by the Stockbridge-Munsee Community Tribal Enrollment Office and may be issued to:
    - (a) The biological child of an enrolled member of the Stockbridge-Munsee Community Band of Mohican Indians.

- (b) The spouse of an enrolled member of the Stockbridge-Munsee Community Band of Mohican Indians.
- (c) The legally adopted minor of an enrolled member of the Stockbridge-Munsee Community Band of Mohican Indians provided said child is less than eighteen (18) years of age.
- (d) To obtain a permit, the burden of proof is on the person seeking the permit by establishing enrollment or providing necessary documentation.

E) "Hunting Identification Permit" - means a card which authorizes the recipient to hunt pursuant to the provisions of this ordinance, within the exterior boundaries of the Stockbridge-Munsee Reservation.

(1) The Hunting Identification Permit(s) shall be issued by the Stockbridge-Munsee Community Tribal Enrollment Office and may be issued to:

- (a) The biological child of an enrolled member of the Stockbridge-Munsee Community Band of Mohican Indians.
- (b) The spouse of an enrolled member of the Stockbridge-Munsee Community Band of Mohican Indians.
- (c) The legally adopted minor of an enrolled member of the Stockbridge-Munsee Community Band of Mohican Indians provided said child is less than eighteen (18) years of age.
- (d) To obtain a permit, the burden of proof is on the person seeking the permit by establishing enrollment or providing necessary documentation.

(F) "Infraction(s)" - means violations of this Ordinance as determined by the context in which it is used.

(G) "Member of the Stockbridge-Munsee Community" or "Member" means a person who is a member of the Stockbridge-Munsee Community Band of Mohican Indians as provided in Article III of the Constitution and By-Laws of the Stockbridge-Munsee Community.

(H) "Motor Vehicle" means an automobile, snowmobile, motorcycle, ATV, tractor, boat, jet ski, or other vehicle, whether moving or not.

(I) "Non-Member" - means all persons, whether natural, corporate, or otherwise, who are not members of the Stockbridge-Munsee Community Band of Mohican Indians as defined under Paragraph G, above.

(J) "Qualified Member" - means a member, as defined in Paragraph G, above, and who has not been prohibited by tribal court action to fish, hunt and/or trap on the reservation.

(K) "Special Permit" - means a card issued by the Tribal Council which exempts a member recipient from one or more of the provisions of this Ordinance upon finding by the Council that granting of such exemptions will not endanger the resource; or which authorizes a non-member

recipient to hunt or fish on the Stockbridge-Munsee Community Reservation in accordance with the provisions of this Ordinance.

(L) "Stockbridge-Munsee Community Reservation" or "Reservation" means all the lands and waters lying within the exterior boundaries of the Stockbridge-Munsee Community.

(M) "Timber Infraction(s)" - means a violation of any provision(s) of this Ordinance relating to Forest Resources for which a civil penalty may be imposed.

(N) "Tribal Council" or "Council" - means the governing body of the Stockbridge-Munsee Community pursuant to Article IV of the Constitution and By-Laws of the Stockbridge-Munsee Community.

(O) "Tribal Court" or "Court" - means the Stockbridge-Munsee Community Court acting pursuant to the Stockbridge-Munsee Community Court Code.

(P) "Tribe" - means the Stockbridge-Munsee Community Band of Mohican Indians.

#### **Section 20.4 Severability and Non-liability.**

If any section, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance will not be affected thereby. The Tribe declares there is no liability on the part of the Tribe, its agencies, or employees for damages that may occur as a result of reliance upon or conformance with this Ordinance. The Tribe, by adoption of this Ordinance, does not waive sovereign immunity in any respect.

#### **Section 20.5 Interpretation.**

This Ordinance shall be deemed a reasonable and proper exercise of the police power of the Stockbridge-Munsee Community for the protection of the public welfare, safety, health, peace and morals of the people of the Stockbridge-Munsee Community and all provisions of this Ordinance shall be liberally construed in favor of the tribe and shall not be deemed as a limitation on or repeal of any other tribal power or authority.

#### **Section 20.6 Authority and Jurisdiction.**

This Ordinance is enacted pursuant to Article VII, Section 1 (f) and (h) of the Tribe's Constitution. Enforcement of this Ordinance shall be through the Stockbridge-Munsee Community Court which shall have jurisdiction over all matters pertaining to this Ordinance and all proceedings instituted hereunder.

#### **Section 20.7 Implied Consent**

Entry upon land or waters of the reservation by non-members for the purpose of engaging in any of the activities regulated by this Ordinance without the consent of the Stockbridge-

Munsee Fish and Game Board, and without the permission of the Tribal Council is prohibited. Such permission when given is expressly conditioned upon the consent of the person, whose entry has been permitted, to the jurisdiction of the Tribal Court for purposes of enforcing this Ordinance. Any person who enters the reservation for the purpose of engaging in any of the activities regulated by this Ordinance shall be deemed to have given consent to the jurisdiction of the Tribal Court for purposes of enforcing this Ordinance.

## **Section 20.8 Special Permits**

### **A. Ceremonial Harvest Permits.**

Notwithstanding any other provision of this Ordinance, the Tribal Council with recommendation of the Stockbridge-Munsee Fish and Game Board may authorize the issuance of a Special Permit for the harvest of fish or game for use at a feast or other ceremonial occasion, upon such terms and conditions as the Council shall deem appropriate.

### **B. Disabled Permits**

Notwithstanding any other provision of this Ordinance, the Tribal Council with recommendation of the Stockbridge-Munsee Fish and Game Board may authorize the issuance of a Disabled Permit or waiver from certain provisions of this Ordinance for persons with disabilities, upon such terms and conditions as the Council shall deem appropriate.

## **Section 20.9 Protected Species.**

(A) There shall be no taking of any species of fish or wildlife determined to be rare or endangered by the Bureau of Sport Fisheries and Wildlife and listed in the current edition of Rare and Endangered Fish and Wildlife of the United States.

(B) There shall be no taking of any species of fish or wildlife that may from time to time be established or reintroduced into the lands and waters of the Stockbridge-Munsee Community Reservation until such time as the Council deems appropriate by establishing a season and regulations pertaining to the taking of such species.

## **Section 20.10 Closed Areas**

(A) The area of the West Branch of the Red River commonly known as the Spring Hole shall be closed each year from October 1 to May 1 inclusive.

(B) All waters are closed to fishing from October 1 through November 30.

(C) The road south of Richard's Bridge shall be closed and the area maintained as a nature preserve.

(D) Four-wheel drive vehicles are prohibited on the logging roads during the spring break up.

## **Section 20.11 Tribal Council.**

(A) The Tribal Council, with recommendation of the Stockbridge-Munsee Fish and Game Board shall regulate the taking of fish, game and other natural resources pursuant to authority granted by Article VII, Section 1 (f) and (h) of the Constitution and By-Laws of the Stockbridge-Munsee Community.

(B) The Tribal Council, with recommendation of the Stockbridge-Munsee Fish and Game Board shall set the Conservation Policy of the Stockbridge-Munsee Community and promulgate rules and ordinances in the regulation and preservation of natural resources within the reservation in furtherance of said policy.

(C) The Tribal Council, with recommendation of the Stockbridge-Munsee Fish and Game Board shall establish hunting, fishing and trapping regulations under the title Stockbridge-Munsee Community Game Regulations (hereinafter Game Regulations) which shall, by reference, be incorporated into this Ordinance.

(1) The Regulations shall annually be reviewed and may be revised and/or amended by Tribal Council Resolution.

(2) Regulations, including revisions and/or amendments, shall be published in the Tribal Newsletter.

(3) Regulations shall become effective on the fifteenth (15th) day after publication.

(D) The Tribal Council, acting on recommendation(s) of the Forestry Committee, shall establish regulations relating to timber harvesting and management on the reservation under the title Stockbridge-Munsee Forest Resources Regulations (hereinafter Forest Resources Regulations) which shall, by reference, be incorporated into this Ordinance and shall be subject to Paragraph (C) 1-3, above.

(E) The Tribal Council, with recommendation of the Stockbridge-Munsee Fish and Game Board shall determine the amount of fees to be charged for all permits involving fishing, hunting, trapping, timber and mining exploitation, or the utilization of other natural resources, and the effective period of such permits as are issued.

(1) All fee schedules shall be included in appropriate Regulations and all fee schedules shall be subject to the requirements of Paragraph (C) 1-3 of this Section.

(2) The Council reserves the right to waive the fee requirement of any permit at its discretion.

(F) The Tribal Council shall have the authority set forth below in addition to such authority and responsibility as set forth elsewhere within this Ordinance:

(1) To issue any Special Permit, Commercial Fishing Permit, or Permit relating to other natural resources of the reservation and to establish the fees, terms, conditions and effective period thereof.

(2) To set seasons for fishing, hunting, trapping, and other activities utilizing resources of the Stockbridge-Munsee Reservation.

(a) Setting of seasons shall include establishing dates, hours, closing or shortening seasons, and extending or opening seasons.

(b) Said seasons shall be made a part of the appropriate Regulations and shall be subject to the requirements of Paragraph (C) 1-3 of this Section.

(3) To set limits on the manner of taking, including equipment used, and/or quantity and/or size of any fish, animal or bird; and to set limits on the manner of taking or harvesting other natural resources of the reservation, including equipment used, quantity taken, and area of the reservation to be exploited

(a) Said limits shall be made a part of appropriate Regulations and shall be subject to the requirements of Paragraph (C) 1-3 of this Section.

(4) To close selected lakes and streams or portions thereof, and/or close portions of the Stockbridge-Munsee Reservation to hunting, fishing, trapping, or other activities involving the natural resources of the reservation

(a) Such closures shall be made a part of appropriate Regulations and shall be subject to the requirements of Paragraph (C) 1-3 of this Section.

(5) To close the reservation or selected areas of the reservation to timber and/or mining related activities.

(a) Such closures shall be made a part of appropriate Regulations and shall be subject to the requirements of Paragraph (C) 1-3 of this Section.

(6) To regulate the use, sale, netting, and possession of minnows and other live bait, including the right to prohibit the use of certain species of live bait; and licensing the sale of minnows and live bait on the reservation through issuance of a Special Permit.

(a) Such restrictions as may be imposed pursuant to this paragraph shall be made a part of the Game Regulations and shall be subject to the requirements of Paragraph (C) 1-3 of this Section.

(7) To review on an annual basis, or more frequently, the numbers of each type of permit outstanding to determine whether or not it is in the best interest of conservation to continue such permits.

- (a) The Council reserves the right, for conservation purposes, to restrict the number of permits that shall be issued in any calendar year or season.
- (b) Such restrictions shall be made a part of the appropriate Regulations and shall be subject to the requirements of Paragraph (C) 1-3 of this Section and Section 20.12 (B) of this Chapter.

(8) To keep and maintain an up-to-date and accurate list of any recipient of a Special permit including pertinent provisions of the permit, said list shall be made available to the Fish & Game Department for enforcement purposes.

(9) To explore the establishment or reintroduction of, and to conduct programs to establish or reintroduce, vegetation, animal life, fish, and other natural resources within the reservation.

(10) To enter into such reciprocity agreements with local, state, tribal, and federal authorities relating to the subject matter of this Ordinance as shall be deemed to be in the best interests of the tribe.

(G) The Tribal Council, in its discretion, may delegate specific authority as set forth herein to the Fish & Game Department, the Forestry Department, other Departments, authorized enforcement personnel, or such other Tribal bodies or officials as it deems appropriate.

#### **Section 20.12 Fish & Game Department.**

(A) The Fish & Game Department shall be a department of Tribal Government having responsibility for carrying out the conservation policies of the Tribe relating to Fish and Game.

(B) The Tribal Enrollment Office shall issue Fishing and/or Hunting Identification Permits to all qualified members of the Tribe upon application by the member; except the Council may place a limit on the number of permits issued due to conservation reasons and the Fish & Game Department shall then apportion the permits in a manner, such as a lottery system, assuring each qualified member an equal opportunity to secure a permit.

(1) Said manner of apportionment shall be subject to the approval of the Council.

(C) The Fish & Game Department and the Stockbridge-Munsee Fish and Game Board shall establish policies and procedures regulating the issuance of Fishing Identification Permits and Hunting Identification Permits. The Fish & Game Department shall establish policies and procedures regulating other activities related to Fish and Game as may be deemed reasonable and necessary for the proper enforcement of this Ordinance subject to approval by the Council.

(1) Upon Council approval said policies and procedures shall be made a part of the Game Regulations and shall be subject to the provisions of Section 20.11 (C) 1-3 of this Ordinance.



(D) The Fish & Game Department shall have authority to enforce the provisions of this Ordinance utilizing authorized enforcement personnel, the Office of the Tribal Prosecutor, and the Stockbridge-Munsee Community Court.

(E) The Fish & Game Department shall adopt the personnel policies and procedures of the Stockbridge-Munsee Tribe.

(F) The Fish & Game Department shall establish policies and procedures not inconsistent with Tribal Law concerning the gathering of evidence, disposal of evidence and/or confiscated property, enforcement procedures, and other policies and procedures as may be deemed reasonable and necessary for the proper enforcement of this Ordinance.

(1) Said policies and procedures shall be subject to the approval of the Council and shall by reference, be made a part of this Ordinance.

(G) All fees collected from the sale of hunting and fishing permits or monies received from the Court shall be deposited in a separate account, set up for that purpose and shall not be co-mingled with any other funds.

(1) The allocation of revenues from hunting and fishing permits shall, with recommendation from the Stockbridge-Munsee Fish and Game Board and the department director, be disbursed in appropriate departmental program budgets by Tribal Council.

### **Section 20.13 Forestry Department.**

(A) The Forestry Department shall be a department of Tribal Government, under the direction of the Forestry Committee having responsibility for carrying out the policies of the Tribe relating to the FOREST RESOURCES of the reservation.

(B) The Forestry Committee shall establish policies and procedures relating to forest resources as may be deemed reasonable and necessary for the proper enforcement of this ordinance; and said policies and procedures shall, by reference, be made a part of the Forest Resources Regulations subject to Council approval.

(1) Upon Council approval said policies and procedures shall be subject to Section 20.11 (C) 1-3 of this Ordinance.

(C) The Forestry Department shall have authority to enforce the provisions of this Ordinance utilizing authorized enforcement personnel, the Office of the Tribal Prosecutor, and the Stockbridge-Munsee Community Court.

(D) The Forestry Department shall adopt the personnel policies and procedures of the Tribe.

(E) The Forestry Department shall work with the Fish and Game Board, Conservation Department and Environmental Department to insure that water quality, fish stocks and fish

spawning areas are not harmed by activities controlled, regulated, or authorized by the Forestry Department.

#### **Section 20.14 Right to Beneficial Usage.**

All enrolled members of the Stockbridge-Munsee Community Band of Mohican Indians shall have the right to share in the beneficial use of the natural resources of the Reservation.

#### **Section 20.15 Fish and Game Infractions - General.**

(A) Fish and Game Infractions shall be made a part of the Game Regulations and shall be subject to Section 20.11 (C) 1-3 of this Ordinance.

(B) For any Fish and Game Infraction defined under this Ordinance the Court may invoke, all or in part, the sanctions provided under Sections 20.19, 20.20, 20.21, and 20.22 of this Ordinance.

(C) The Tribal Court shall inform, in writing, the appropriate permit authority of any permit(s) or privilege(s) revoked or suspended as part of an adjudicated proceeding before the Court.

#### **Section 20.16 Infractions Defined.**

(A) Any person who kills, wounds, catches, takes, traps, or has in his/her possession any fish, bird, small game, big game, or fur bearing animal included in this Ordinance without a valid permit or permits shall be guilty of a Class A Infraction.

(B) Allowing any other person to make use of his/her permit, regardless of whether or not such person would qualify to receive a permit in his/her own right, shall be deemed a Class B Infraction.

(C) Taking, assisting in taking, possessing or transporting, any game prohibited in Section 20.9 of this Ordinance shall be deemed a Class A Infraction.

(D) Wanton destruction or waste of any game animal, fish or bird on the reservation shall be deemed a Class A Infraction.

(E) Exceeding established limits, using prohibited means or equipment, or fishing, hunting, or trapping outside of established seasons and/or hours shall be deemed a Class B Infraction.

(F) Hunting, fishing from a boat or trapping while under the influence of alcohol or controlled substances shall be deemed a Class C Infraction.

(G) Fraud in the procurement of any permit shall be deemed a Class B Infraction.

(H) Carrying a firearm in any motor vehicle, unless the firearm chamber is unloaded or a loaded magazine is not attached to the firearm or the firearm is otherwise broken down, shall be

deemed a Class C Infraction. Rounds may be stored separately from the firearm or in a separate magazine, so long as the magazine is not attached to the firearm.

(I) Hunting from a snowmobile or chasing game with a snowmobile or other motor vehicle shall be deemed a Class C Infraction.

(J) Except for hunting of raccoon or coyote, hunting of game animals by artificial lights shall be deemed a Class C Infraction.

(K) Refusal of any person engaged in any activity relating to fishing, hunting and/or trapping, regulated under this Ordinance to display the proper permit or identification upon request of any Authorized Law Enforcement Personnel shall be deemed a Class C Infraction.

(L) Violating the terms and/or conditions of any Special Permit shall be deemed a Class A Infraction.

(M) Violating the terms and/or conditions of any Commercial Fishing Permit shall be deemed a Class A Infraction.

(N) It shall be unlawful to take fish by means of explosives, drugs, poisons, lime, medicated bait, or other deleterious substances. Violation of this provision shall be deemed a Class A Infraction.

(O) It shall be unlawful to use fish seines, fish traps or gill nets, except under authority of a Special Permit issued by the Council. Violation of this provision shall be deemed a Class C Infraction.

(P) It shall be unlawful to hunt with any crossbow or to hunt with any poisoned arrow or arrow with explosive tip. Violation of this provision shall be deemed a Class C Infraction.

(Q) It shall be unlawful to take big game with the aid of any trap or snare, or with the aid of dogs; except bear may be taken with the aid of dogs. Violation of this provision shall be deemed a Class C Infraction.

(R) It shall be unlawful to use a set gun or swivel gun for any purpose. Violation of this provision shall be deemed a Class A Infraction.

(S) It shall be unlawful to take game with the use of drugs, medicated bait, poison, or other deleterious substances. Violation of this provision shall be deemed a Class A Infraction.

(T) It shall be unlawful to take bear within fifty (50) yards of any garbage dump or within one hundred (100) yards of any dwelling or within one hundred (100) yards of any area designated by the Tribe as a campground. Violation of this provision shall be deemed a Class A Infraction.

(U) It shall be unlawful to discharge any firearm across or down any road, or to hunt within fifty (50) feet of any public road. Violation of this provision shall be deemed a Class C Infraction.

(V) It shall be unlawful to deposit any game entrails, body parts, and/or hide, into the waters of any creek, stream, river or lake or to dispose of same within 150 feet of any creek, stream, river, lake, road, residence or residential area located within the exterior boundaries of the Stockbridge-Munsee Community Reservation. Violation of this provision shall be deemed a Class C Infraction.

(W) Any person who enters or remains on any land owned by the Stockbridge-Munsee Community without the Tribe's authorization shall be subject to a Class A infraction.

(X) Any person who sells, or assists, or aids in the sale of venison meat is subject to a Class A infraction.

(Y) Permanent tree strands are prohibited. Step-in ladders, metal screws, or nails attached to trees are prohibited. Violators will be subject to a Class A infraction.

#### **Section 20.17 Timber Infraction(s) - General.**

(A) Timber infractions shall be made a part of the Forest Resources Regulations and shall be subject to Section 20.11 (C) 1-3 of this Ordinance.

(B) Each day or portion of a day during which a violation occurs or exists is a separate violation and shall be subject to the sanctions provided under Sections 20.19, 20.20, 20.21, and 20.22 of this Ordinance.

(C) For any Timber Infraction defined under this Chapter the Tribal Court may invoke, all or in part, the provisions of Sections 20.19, 20.20, 20.21, and 20.22 of this Ordinance.

(D) The Tribal Court shall inform the Forestry Department in writing of any permit(s) or privilege(s) revoked or suspended as the result of an adjudicated proceeding before the Court.

(E) The imposition of the civil penalties provided in Sections 20.19, 20.20, 20.21, and 20.22 shall not be a defense by any person to a criminal charge for timber trespass or timber theft brought against such person by the United States Government as trustee of the forest resources of the Stockbridge-Munsee Tribe.

#### **Section 20.18 Infractions Defined.**

(A) Violating the terms and/or conditions of any permit issued pursuant to this Ordinance shall be deemed a Class A Infraction.

(B) Harvesting, cutting, and/or taking forest resources without the requisite permit shall be deemed a Class A Infraction.

(C) Fraud in the procurement of any permit shall be deemed a Class B Infraction.

(D) Exceeding the amount of wood or wood products authorized for harvest under a permit issued pursuant to this Ordinance shall be deemed a Class A Infraction.

(E) Refusal of any person engaged in harvesting, cutting and/or taking of forest resources, to display the proper permit or identification upon request of any authorized law enforcement personnel shall be deemed a Class C Infraction.

(F) Placing or causing to be placed into the waters of any creek, stream, river or lake any tree or plant or portion thereof; or placing or causing to be placed into the waters of any creek, stream, river or lake any soil or timber resource debris resulting from any activity regulated by this Ordinance shall be deemed a Class B Infraction.

(G) Removing wood or wood products cut on the Reservation without first having it scaled by the BIA Forester assigned to the Tribe shall be deemed a Class A Infraction.

(H) Cutting any tree(s) within two hundred (200) feet of any River shall be deemed a Class A Infraction.

#### **Section 20.19 Civil Damages.**

In addition to an action to impose civil remedial money penalties the Tribe may bring a civil action for recovery of damages against any person unlawfully killing, wounding, catching, taking, trapping, harvesting, or having unlawfully in his/her possession any game animal, fish or bird; or unlawfully harvesting, cutting, taking or destroying any timber or other natural resource of the Tribe.

#### **Section 20.20 Penalties.**

Any person, whether natural or corporate, who violates this Ordinance shall be liable as follows:

(A) For a civil remedial money penalty in an amount to be determined by the class of infraction of the offense.

(B) For a civil remedial forfeiture of any property, including boats, motors, vehicles, fishing equipment, hunting equipment, trapping equipment, logging equipment, mining equipment, and/or other property used in the commission of a violation of this Ordinance.

(C) In addition to any other penalty for violation of this Ordinance, the Tribal Court may revoke or suspend any or all privileges or permits granted under or regulated by this Ordinance for a period of up to two (2) years.

(D) Court costs may be assessed against any person found in open court to have violated this Ordinance.

(E) Except for court costs, other monies received by the Court shall be allocated pursuant to Section 20.12(G)

### **Section 20.21 Classification of Infractions.**

(A) Civil remedial money penalties, referred to in this Ordinance as Fish & Game Infraction(s) or Timber Infraction(s), are classified and carry penalties as follows and other remedies as the court deems appropriate:

(1) Class A Infractions, not less than \$75 nor more than \$10,000.00.

(2) Class B Infractions, not less than \$50 nor more than \$10,000.00.

(3) Class C Infractions, not less than \$25 nor more than \$10,000.00.

(B) When any person is found guilty of a violation, and such person has been convicted of a previous violation of this Ordinance within a period of one year, there shall be a mandatory revocation of all privileges regulated under this Ordinance for a minimum of two years, and the Infraction penalties may be enhanced as follows and other remedies as the court deems appropriate:

(1) For a Class A Infraction, \$5,000.00.

(2) For a Class B Infraction, not less than \$100 nor more than \$5,000.00.

(3) For a Class C Infraction, not less than \$50 nor more than \$5,000.00.

(C) For a third violation of this Ordinance within a period of one (1) year the penalty shall be \$5,000.00 and a mandatory lifetime revocation of all privileges regulated under this Ordinance and other remedies as the court deems appropriate.

### **Section 20.22 Parties to a Violation.**

(A) Whoever is concerned in the commission of a violation of this Ordinance is a principal and may be charged with the violation although he or she did not directly commit it and although the person who directly committed it has not been convicted of the violation.

(B) A person is concerned in the commission of a violation if the person:

(1) Directly commits the violation; or

(2) Aids and abets the commission of it; or

(3) Is a party to a conspiracy with another to commit it or advises, hires, or counsels or otherwise procures another to commit it.

(C) Any person who attempts any violation of this ordinance shall be subject to the same class of infraction if they had completed all the steps for a violation. An attempt to commit a violation requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute a violation and that the actor does acts towards the commission of the violation which demonstrate unequivocally, under all the circumstances, that the actor formed that intent and would commit the crime except for the intervention of another person or some other extraneous factor.

### **Section 20.23 Amendments.**

Amendments to this Ordinance will be effective upon enactment by the Stockbridge-Munsee Community Tribal Council without further review by the Secretary of the Interior.

### **Legislative History**

Legislative attorney's note: Section 20.16(W), added as amendment on January 8, 1997, Resolution No. 102-97, contained a typographical error. The word "with" should have been the word "without." The typographical error was corrected on September 14, 2000.

On July 20, 2004, Resolution No. 039-04, Tribal Council amended section 20.3(G); sections 20.7, 20.11(A), 20.11(B), 20.11(C), 20.11(E), 20.12(C) by adding in reference to Stockbridge-Munsee Fish and Game Board; section 20.12(G)(1); section 20.16(H); section 20.16(J); section 20.16(v); section 20.21 by increasing fines, penalties, and allowing the court more flexibility. Deleted sections 20.3(D)(1)(a), (E)(1)(a) which previously required Tribal members to a fishing permit and hunting permit respectively; deleted "foster child" from sections 20.3(D)(1)(d), (E)(1)(c); deleted "and trap" from section 20.3(E); deleted "Fish and Game Department" from sections 20.3(D)(1), 20.3(E)(1), 20.12(B); deleted "Tribal Enrollment Office" from section 20.12(C); deleted "Environmental Protection Committee" from section 20.13(E); section 20.22 "Incarceration." Created section 20.3(D)(1)(d); 20.3(H); section 20.8(b); section 20.16(x); section 20.16(y); section 20.20(E).